

# The Gazette of India

## EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

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No. 110] NEW DELHI, FRIDAY, MAY 14, 1954

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### ELECTION COMMISSION NOTIFICATION

*New Delhi, the 30th April, 1954*

**S.R.O. 1609.**—Whereas the election of Shri Dinabandhu Sahu, as a member of the Legislative Assembly of the State of Orissa, from the Kendrapara constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Jadumoni Mangraj, S/o Shri Bhikari Charan Mangraj, Village & P.O. Karilopatna, District Cuttack;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

### BEFORE THE ELECTION TRIBUNAL, CUTTACK

#### PRESENT:

Sri N. C. Ganguli, *Chairman.*

Sri R. C. Mitra and Sri K. D. Chatterji, *Members.*

*The 16th November, 1953*

ELECTION CASE NO. 4 OF 1952

ELECTION PETITION NO. 99 OF 1952

Jadumani Mangraj, son of Bhikari Charan Mangraj of Karilopatna, P. S. Patkura, P.O. Karilopatna, District Cuttack—*Petitioner.*

*Versus*

1. Dinabandhu Sahu, son of Suban Sahu of village Mirapatna, P. S. Kendrapara, P.O. Kendrapara, District Cuttack.
2. Sarojkanta Kinungo, son of Radhakanta Kanungo of Bhagabatpur P. S. Kendrapara, P.O. Bhagabatpur, District Cuttack.
3. Lokanath Das, son of Joyram Das Shamasundarpur, P. S. Kendrapara, P.O. Kantia, District Cuttack—*Respondents.*

Pleader for the Petitioner, Sri A. K. Das, Sri S. K. Roy, Sri B. M. Das and Sri M. N. Das, *Advocates.*

Pleader for the Respondent No. 1, Sri A. Das, Sri S. Mahanty, Sri L. K. Dasgupta, Sri B. K. Pal, Sri G. N. Sengupta, and Sri C. M. Acharya, *Advocates.*

N. C. Gunguli, *Chairman.*

K. D. Chatterji, *Member.*

This is a petition for setting aside the election of Respondent No. 1 from the Kendrapara Constituency to the Orissa Legislative Assembly or for a declaration that the election is wholly void and in the alternative for a declaration that the petitioner is the duly elected candidate from the constituency. Out of the three respondents Respondent No. 3 withdrew from the election. The contest was between the petitioner, Respondent No. 1 and Respondent No. 2. The allegations of the petitioner are as follows:—

That the Respondent No. 1 committed the corrupt practice of bribery by inducing Respondent No. 3 to withdraw from the election upon a promise of a job in the Grow More Food Department. Respondent No. 1 is alleged to have been instrumental in causing the management of the Aul Estate to be taken over by the Court of Wards and the employees of the Court of Wards including one Padma Charan Mohanty, Sub Manager of the Derabisi Circle did active propaganda for him in the election. Choudhury Balabhadra Prasad Das, Manager of the Orissa Road Transport Company is alleged to have actively canvassed for respondent No. 1. Four other persons, alleged to be Government servants and named in the list of particulars are said to have actively canvassed for Respondent No. 1. They are Indramoni Misra, Branch Post Master of Danpur Post Office, Padma Charan Thatoi, Branch Post Master of Tilotamadeipur Post Office, Gopinath Misra, Auditor, Kendrapara Central Co-operative Bank and Gourishyam Mohanty of the Canal Revenue Department. It is further alleged that many of the Presidents of the Chaukidari Unions, of whom four are named in the list of particulars, and Dafadars and Choukidars under them, canvassed for Respondent No. 1. Respondent No. 1 is further alleged to have, in contravention of Section 123(6), used motor cars, motor buses, jeeps and numerous bullock carts for the transport of voters to various booths. Respondent No. 1 circulated a pamphlet "Mangaraj Babu O Congress" containing false statements in relation to the petitioner's personal character and conduct and in relation to his candidature. It is also said that Respondent No. 1 held out false promises to the voters for excavating irrigation canals and thereby inducing large number of voters to vote for him. He is further alleged to have caused, for the purpose of securing votes, the District and local Boards to grant stipends, grants etc. to various schools and also for the same purpose made personal contributions to various schools. Lastly, it is alleged that he provided voters with cooked food near three booths.

The Respondent No. 1 in his written statement has denied each and every allegation of the petition. He has further raised some points of law in his written statement regarding the maintainability of the petition which will be dealt with under the appropriate issues. A petition of recrimination has been filed by him making various allegations of corrupt practices against the petitioner out of which it is only necessary to refer to two because others were not pressed at the hearing. It is said that in his election propaganda the petitioner who is a Khandayat by caste made a systematic appeal on the ground of caste, asking the Khandayat voters to vote for him. The second allegation is that he attempted to induce a belief in Respondent No. 1 that he (Respondent No. 1) will be the object of divine displeasure if he did not withdraw from the election.

Upon the allegations in the petition filed by the petitioner and the petition of recrimination filed by Respondent No. 1 the following issues as suggested by the parties were framed.

#### ISSUES

1. Is the petition maintainable according to law?
2. Is the petition liable to be dismissed having contravened Section 81 of the Representation of the people Act, 1951?
3. Had the Election Commission jurisdiction to condone the delay? If so, did it exercise jurisdiction illegally?
4. Is the petition barred by limitation under Section 81 of the R. P. Act and liable to be dismissed under section 90(4) of the R. P. Act?
5. Did the petition contravene section 83 of the Representation of the People Act?
6. Had the Election Commission jurisdiction to allow the petitioner to correct the verification?
7. Is the petition legally verified, if not, is it liable to be dismissed under section 90(4) of the R. P. Act?